

EXHIBIT A

SUMMONS**(CITACION JUDICIAL)**

NOTICE TO DEFENDANT: PROGRESSIVE CASUALTY INSURANCE
(AVISO AL DEMANDADO) COMPANY, TAMER ABULEBDA and DOES 1 TO

100

YOU ARE BEING SUED BY PLAINTIFF AHMED HALEEM
(LO ESTÁ DEMANDANDO EL DEMANDANTE)

SUM-100

FOR COURT USE ONLY
 (SOLO PARA USO DE LA CORTE)

ENDORSED
FILED
ALAMEDA COUNTY

JUL 30 2021

CLERK OF THE SUPERIOR COURT

***NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case, there may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

(AVISO) Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información e continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegerá. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desecher el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California, County of Alameda

24405 Amador Street

Hayward, California 94544

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Gene J. Goldsman, Esq.

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Law Offices of Gene J. Goldsman

501 Civic Center Drive West, Santa Ana, CA 92701

DATE:

(Fecha)

JUL 30 2021

Chad Finke

Clerk by:

(Secretario)

Esther Calera

(714) 541-3333

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **PROGRESSIVE CASUALTY INSURANCE COMPANY**

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☒ other (specify): **CCP 415.95 (business organization, form unknown)**

4. ☐ by personal delivery on (date):

Form Adopted for Mandatory Use
 Judicial Council of California
 SUM-100 (Rev. July 1, 2009)

SUMMONS

Code of Civil Procedure §§ 412.20, 455
www.courtinfo.ca.gov
 Modified Per A. Brown, 10/1/09

CIV-050

**-DO NOT FILE WITH THE COURT-
- UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Gene J. Goldsman, Esq. LAW OFFICES OF GENE J. GOLDSMAN 501 Civic Center Drive West Santa Ana, CA 92701	TELEPHONE NO.: (714)541-3333	FOR COURT USE ONLY
ATTORNEY FOR (name): Ahmed Haleem		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 24405 Amador Street MAILING ADDRESS: 24405 Amador Street CITY AND ZIP CODE: Hayward, 94544 BRANCH NAME: Hayward Hall of Justice		
PLAINTIFF: Ahmed Haleem DEFENDANT: Progressive, et al.		
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)		
		CASE NUMBER: HG21107078

To (name of one defendant only): Progressive
 Plaintiff (name of one plaintiff only): Ahmed Haleem
 seeks damages in the above-entitled action, as follows:

- | | AMOUNT |
|---|---------------|
| 1. General damages | |
| a. <input checked="" type="checkbox"/> Pain, suffering, and inconvenience..... | \$ 750,000.00 |
| b. <input checked="" type="checkbox"/> Emotional distress | \$ 750,000.00 |
| c. <input type="checkbox"/> Loss of consortium | \$ |
| d. <input type="checkbox"/> Loss of society and companionship (wrongful death actions only)..... | \$ |
| e. <input type="checkbox"/> Other (specify) | \$ |
| f. <input type="checkbox"/> Other (specify) | \$ |
| g. <input type="checkbox"/> Continued on Attachment 1.g. | |
| 2. Special damages | |
| a. <input checked="" type="checkbox"/> Medical expenses (to date) | \$ 100,000.00 |
| b. <input checked="" type="checkbox"/> Future medical expenses (present value) | \$ 250,000.00 |
| c. <input type="checkbox"/> Loss of earnings (to date)..... | \$ |
| d. <input type="checkbox"/> Loss of future earning capacity (present value)..... | \$ |
| e. <input checked="" type="checkbox"/> Property damage..... | \$ 40,000.00 |
| f. <input type="checkbox"/> Funeral expenses (wrongful death actions only) | \$ |
| g. <input type="checkbox"/> Future contributions (present value) (wrongful death actions only) | \$ |
| h. <input type="checkbox"/> Value of personal service, advice, or training (wrongful death actions only) | \$ |
| i. <input type="checkbox"/> Other (specify) | \$ |
| j. <input type="checkbox"/> Other (specify) | \$ |
| k. <input type="checkbox"/> Continued on Attachment 2.k. | |
| 3. <input checked="" type="checkbox"/> Punitive damages: Plaintiff reserves the right to seek punitive damages in the amount of (specify) \$ 500,000.00 when pursuing a judgment in the suit filed against you. | |

Date: 12.20.2021

Gene J. Goldsman, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

(Proof of service on reverse)

Page 1 of 2

Form Adopted for Mandatory Use
 Judicial Council of California
 CIV-050 (Rev. January 1, 2007)

STATEMENT OF DAMAGES
 (Personal Injury or Wrongful Death)

Code of Civil Procedure, §§ 425.11, 425.115
www.courtinfo.ca.gov

American LegalNet, Inc.
www.FormsWorkflow.com

Gene J. Goldman, Esq. SBN 76554
 LAW OFFICES OF GENE J. GOLDSMAN
 501 Civic Center Drive West
 Santa Ana, CA 92701-4059
 (714) 541-3333/FAX (714) 541-0456
 Attorneys for Plaintiff, AHMED HALEEM

ENDORSED
 FILED
 ALAMEDA COUNTY

JUL 30 2021

CLERK OF THE SUPERIOR COURT

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
 FOR THE COUNTY OF ALAMEDA-HAYWARD JUSTICE CENTER

AHMED HALEEM,

Plaintiffs,

PROGRESSIVE CASUALTY
 INSURANCE COMPANY, TAMER
 ABULEBDA and DOES 1 TO 100,

Defendants.

Case No.:
 Assigned: HC 21107078
 Dept:

1. BREACH OF THE COVENANT OF
 GOOD FAITH AND FAIR DEALING IN
 TORT (BAD FAITH);
2. BREACH OF CONTRACT / BREACH OF
 THE COVENANT OF GOOD FAITH AND
 FAIR DEALING IN CONTRACT;
3. PROMISSORY FRAUD / DECEIT

Plaintiffs, AHMED HALEEM, hereby alleges against Defendants PROGRESSIVE
 CASUALTY INSURANCE COMPANY, TAMER ABULEBDA and Does 1 to 100, as follows:

COMPLAINT

Haleem v. Progressive Casualty Insurance Company, et al.

FIRST CAUSE OF ACTION

BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

(As against, PROGRESSIVE CASUALTY INSURANCE COMPANY, hereafter referred to as "PROGRESSIVE"; TAMER ABULEBDA, Hereafter referred to as "ADJUSTER" and Does 1 to 100)

1. Plaintiff is and at all times mentioned herein, was an individual residing in the County of Alameda, State of California.

2. Plaintiff is informed and believes and thereon alleges that Defendant PROGRESSIVE was at all times herein mentioned, doing business, form of organization unknown, in the County of ALAMEDA, State of California as duly licensed insurers doing business in the State of California.

3. Plaintiff is informed and believes and thereon alleges that Defendant TAMER ABULEBDA ("ADJUSTER") was a individual domiciled in State of California, County of Alameda.

3. Plaintiff is genuinely ignorant of the true names and capacities of Defendants, sued herein as Does 1 through 100, and therefore sues said Defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities when the same have been ascertained. Plaintiff is informed and believes and thereon alleges that each fictitiously named Defendant is responsible in some manner for the acts or omissions alleged herein and Plaintiff's injuries as herein alleged were proximately caused by those acts or omissions.

4. At all times herein mentioned, each of the Defendants was the agent, servant, contractor or employee, joint venture, alter ego, alternative entity, successor, predecessor or alter ego of each of the remaining Defendants, and in doing the things hereinafter alleged was acting within the course and scope of such agency or employment, and/or in the furtherance of a partnership, joint venture, co-conspiracy or under some other legal theory and for the benefit of each and every other defendant.

5. The conduct, acts, and omissions of Defendants, and each of them, as described in this complaint, was undertaken by Defendant PROGRESSIVE's officers or managing agents, including Defendant TAMER ABULEBDA "ADJUSTER" identified as DOES 1 to 100, who were responsible for claims operations, underwriting, communications, investigations, and decisions. The conduct of the managing agents and individuals was therefore undertaken on behalf of Defendant

1 PROGRESSIVE. Further, Defendants, and each of them, had advance knowledge of the actions and
 2 conduct of those individuals, whose actions and conduct were ratified, authorized, and approved by
 3 managing agents and by other corporate officers, directors, or managing agents whose precise
 4 identities are unknown to Plaintiff at this time. Plaintiff thus identifies and designates those
 5 individuals as DOES 1 to 100.

6 6. Defendant, PROGRESSIVES 'S corporate headquarters is located out of the State of California,
 7 but has agency offices in ALAMEDA for selling policies of indemnity insurance and does sell such
 8 policies in and for vehicles and customers in ALAMEDA County, California, and is an out of state
 9 insurance company registered in California to do business.

10 7. Prior to October 31, 2018, Ahmed Haleem purchased an insurance policy for automobile
 11 insurance, 925092094, including uninsured and underinsured motorist benefits from Defendants, and
 12 each of them, including Haleem, which policy was in effect on the date of the accident, and had been
 13 in effect prior to the October 31, 2018 accident, and under which Plaintiff was an insured person.

14 8. The force and effect of said contract with Defendants, and each of them, required the payment of
 15 an underinsured motorist benefits for a total amount for one person of up to \$100,000.00 damages.
 16 All premiums due under said contract were paid to Defendants, and each of them; at all relevant times
 17 herein, and all material obligations thereunder were performed by or on behalf of Plaintiff.

18 9. Defendant, PROGRESSIVE, represented in the aforementioned contract of insurance that
 19 Defendants, and each of them, would provide compensation to an insured, including Plaintiff, in the
 20 event of a loss caused by a uninsured or underinsured motorist or hit and run driver to the same extent
 21 as an uninsured motorist would be liable to plaintiff, that is up to a total limit of \$100,000.00.

22 10. On October 31, 2018 Plaintiff was driving his motor vehicle on California Hwy 680 and 580
 23 junction interchange City of Dublin, County of Alameda, State of California 94588. On that date
 24 plaintiff was struck by a vehicle driven by an underinsured motorist, one JESUS MAR MELGOZA
 25 and owned by JOEL MELGOZA (hereinafter called "JESUS" and "JOEL") as he failed to yield
 26 struck Plaintiff while making an unsafe lane change, proximately causing Plaintiff severe and
 27 permanent bodily injuries. JESUS AND JOEL had no insurance policy covering this collision.
 28 Thereafter, on or about December 23, 2020 \$50,000 of the Policy was tendered, Plaintiff, settled with

1 his insurance carrier for full uninsured motorist single person's policy limits of \$50,000.00. Plaintiff
2 thus exhausted the half the policy.

3 11. On or about December 11, 2020, Plaintiff's attorney notified Progressive by letter that the firm
4 was representing AHMED HALEEM and provided true copies of medical documentation.

5 12. All the way until the time of settlement, Plaintiff, through his counsel, sent to PROGRESSIVE
6 'S employees and its employee including TAMER ABULEBDA, and counsel reputable, and
7 convincing medical evidence of Plaintiff's personal injuries proximately caused by the October 31,
8 2018 motor vehicle collision by the uninsured motorist. This evidence included detailed medical
9 reports and assessments, bills, and diagnostic test results from extremely reputable and respected
10 medical professionals within the California medical community. The medical evidence given to
11 Defendants, and each of them, showed that Plaintiff had among other injuries, tinnitus that left
12 Plaintiff with permanent chronic ringing in the ears as well as chronic lower back issues and related
13 costs and expenses, a great possibility of lifetime pain. All of Plaintiff's treating physicians agreed on
14 the seriousness of the condition which was proximately caused by the underinsured motorist.

15 13. All through the case, and continuing through the settlement, Defendants, and each of them,
16 unjustifiably, negligently, and in bad faith refused and delayed in paying anything of said claim, by
17 failing to investigate properly and setting up false defenses and failed to settle
18 fairly and to pay the claim despite having been in a position to have obtained convincing knowledge
19 of the circumstances of the accident and Plaintiff's injuries, and there was no question of liability.

20 14. It was clear early in the claims process that Plaintiff was deserving of some payment of any
21 amount of the policy at all, but rather than pay or tender an offer commensurate with his injuries,
22 Defendants, and each of them, tormented Plaintiff through litigation, proximately causing and
23 requiring him to go through the expense of thousands of dollars in litigation costs to his damage, in
24 addition to proximately causing him the anguish of litigation.

25 15. Defendants, and each of them, in derogation of their duty to their policy holder, the Plaintiff,
26 refused to make a reasonable good faith offer given all the supporting medical evidence they
27 possessed. Defendant refused to provide Plaintiff with a good faith offer.

28

1 16. Defendants, and each of them, breached their duty of good faith and fair dealing owed to
2 Plaintiff in the following respects:

3 a) Failing unreasonably and in bad faith to make a good faith offer and benefit payments to
4 Plaintiff at a time when Defendants, and each of them, knew that Plaintiff was entitled to those
5 benefits under the terms of the policy, and knowing the underinsured motorist was liable to Plaintiff
6 for any damages Plaintiff incurred as a result of the accident, and should pay a significant amount of
7 the policy and it was reasonably clear that the Plaintiff's damages were easily worth a significant
8 amount of the policy limits.

9 b) Unreasonably delaying payments to Plaintiff in bad faith, despite Defendants', and each of
10 them, knowledge that Plaintiff's claim for benefits under the policy was valid. Defendants, and each
11 of them, were fully aware that their liability to pay a significant amount of the available policy limits
12 was clear.

13 c) Failing reasonably and promptly to investigate and process Plaintiff's claim for benefits, in
14 that Defendants, and each of them, in the exercise of reasonable diligence, should have known that
15 Plaintiff was injured and damaged to a significant amount of the available policy limits benefits, and
16 that the underinsured motorist was liable to Plaintiff for any damages Plaintiff incurred as a result of
17 the accident.

18 d) Failing to make a good faith effort to obtain prompt, fair, and equitable settlement of
19 Plaintiff's claims for benefits after the liability of Defendants, and each of them, had become reasonably
20 clear, in that Plaintiff was an insured under the policy. Defendants, and each of them, well knew that
21 the underinsured motorist was liable for the accident and that Plaintiff's severe personal injuries clearly
22 exceeded the \$100,000 underinsured policy and a significant amount of the available policy limits of
23 Plaintiff's insurance policy, and instead of paying the claim, went about building a false defense and
24 failed to make a good faith settlement to Plaintiff prior to the settlement when they could not claim
25 they did not have all of the Plaintiff's medical evidence.

26 e) Tormenting Plaintiff to go through the expense of thousands of dollars in litigation costs, in
27 addition to the mental anguish associated with the refusal to pay reasonable sums, and with subsequent
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1 litigation, and further caused Plaintiff to incur extreme financial stress and anxiety because the benefits
2 due were required to assist Plaintiff during this time of medical and financial emergency.

3 f) Defendants, and each of them, have breached their duty of good faith and fair dealing owed
4 to Plaintiff by other acts or omissions of which Plaintiff is presently unaware, which will be shown
5 according to proof at time of trial.

6 17. Had Defendants, and each of them, conducted a reasonable investigation of the claim,
7 Defendants, and each of them, would have learned, *inter alia*, that Plaintiff was injured by an "at fault"
8 underinsured motorist for which compensation was due to him for injuries to the extent of a significant
9 amount of the available policy limits. Instead Defendants, and each of them, did not ever make a
10 reasonable offer after a valid demand, and delayed and procrastinated at every opportunity. Defendant
11 never provided Plaintiff with a good faith offer or at any time during the UIM claim. These actions
12 were intentional and were undertaken in an effort to discourage Plaintiff from pursuing his claim for
13 damages in an attempt to deprive Plaintiff of the benefits due to him under his insurance policy.

14 18. Plaintiff is informed and believes and upon such information and belief alleges that Defendants,
15 and each of them, in furtherance of their scheme to defraud and deprive Plaintiff of benefits under the
16 insurance policy, set up defenses based on dubious and unqualified orthopedic expertise.

17 19. One of the reasons for denying Plaintiffs' claim for benefits without proper cause, when
18 Defendants, and each of them, knew such claims to be just, reasonable, and due Plaintiff under said
19 policy of insurance, was to place Plaintiff in the disadvantageous position of needing funds to support
20 himself while injured, thereby placing Plaintiff in a position wherein he would be forced to beg for,
21 and accept, an offer settling Plaintiff's claim for underinsured motorist benefits in an amount
22 substantially less than the true amount owed to Plaintiff under the terms of said policy of insurance.

23 20. As a direct result of Defendants, and each of them, unreasonably delaying payments to
24 Plaintiff in bad faith, failing to reasonably and promptly investigate and process Plaintiff's claim
25 for benefits, and failing to make a good faith effort to obtain prompt, fair, and equitable
26 settlement of Plaintiff's claim for benefits without proper cause, Plaintiff was forced to wait for
27 payments due and was forced to proceed with a law suit in bad faith incurring the associated costs
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1 and emotional distress associated with such proceeding and was denied benefits under the policy
2 to which he was entitled in a time of medical and emotional need.

3 21. As a proximate result of the unreasonable and bad faith conduct mentioned above, without
4 proper cause, Plaintiff has suffered economic and consequential damages in an amount to be
5 shown at trial. These damages include, but are not limited to, significant economic loss both as a
6 result of the subject incident and during the interim period while Defendants, and each of them,
7 were withholding benefits without proper cause; additional costs for health care providers; and
8 all other economic and general damages in a sum to be determined at trial.

9 22. As a further proximate result of the wrongful conduct of Defendants, and each of them,
10 without proper cause, Plaintiff has suffered anxiety, worry, mental and emotional distress, all to
11 Plaintiff's general damages in a sum to be determined at the time of trial.

12 23. The conduct of Defendants, and each of them, described in this complaint of deliberately
13 and calculatingly failing to provide the compensation which they knew was due to Plaintiff,
14 scheming to conspire and defraud Plaintiff, and committing actual fraud against Plaintiff, and
15 further intentionally inflicting emotional distress upon Plaintiff, offering a settlement of half the
16 policy only when threatened with a bad faith suit and in light of compelling medical evidence
17 supporting that Plaintiff was entitled to the a significant amount of the available policy benefits,
18 while well knowing their policy holder and insured was entitled to policy limits, constitutes malice
19 and oppression under California Civil Code section 3294, in that it was done with the intent to vex,
20 injure, or annoy and with conscious disregard of the Plaintiff's rights, and deliberately in bad faith,
21 to deny him the benefits to which he was entitled under the policy. All the aforesaid acts were
22 performed in an effort to discourage Plaintiff from seeking the compensation due to him at a time
23 Defendants, and each of them, knew that the Plaintiff was financially vulnerable. Thus, Plaintiff
24 is entitled to punitive and exemplary damages in an amount appropriate to punish and make an
25 example of Defendants, and each of them.
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24. Plaintiff has been required, in order to litigate his rights and prosecute this action, to retain attorneys and incur attorneys' fees and litigation expense in an amount to be proved.

25. Because of the refusal of Defendants, and each of them, to pay reasonable benefits, Plaintiff was forced to expend additional attorney's fees, expert witness fees, and expenses.

SECOND CAUSE OF ACTION

BREACH OF CONTRACT / BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING IN CONTRACT

(As Against **PROGRESSIVE; TAMER ABULEBDA** and DOES 1 to 100)

26. Plaintiff hereby incorporates by reference all prior and subsequent paragraphs of this complaint as if set forth in full herein.

27. Plaintiff, by paying the premiums entered into the written auto insurance policy contract offered him by Defendants, and each of them, prior to and on or about October 15, 2018. Plaintiff was involved in an accident on or about October 31, 2018. Plaintiff retained counsel shortly thereafter, in 2018, related to the investigation and settlement of plaintiff's UIM/UM claim with defendants, and each of them, in hopes to avoid UIM/UM arbitration. Thereafter, plaintiff wrote and made a UM/UIM claim with his insurance company 18-4466239, Defendant, Progressive. Plaintiff engaged in over a three-year period of cooperation with defendants, and each of them during 2018, 2019, 2020, and far into 2020 almost 2021. During this time period, there were regular and numerous letters and communication between plaintiff/Plaintiff's counsel and insurer including adjuster TAMER ABULEBDA, for Defendant, Progressive. Plaintiff provided many facts and evidence of the accident occurrence, including evidence of vehicle "contact" from the underinsured driver which would invoke plaintiff's UM/UIM insurance policy coverage for plaintiff.

28. During 2018, 2019, and well into 2020, PROGRESSIVE and Defendant adjuster TAMER ABULEBDA ignored and refused to pay in full, plaintiff's "no-fault" "medical -pay" money due him under the plaintiff's PROGRESSIVE insurance policy after demand was made and medical bills were sent to PROGRESSIVE.

29. Plaintiff's demands for the significant remaining portion of the policy UM/UIM benefits were denied by PROGRESSIVE after a settlement of \$50,000 UM driver policy, which was half the full policy. Plaintiff was thereafter compelled to file a lawsuit against PROGRESSIVE and ADJUSTER in Bad Faith.

30. At all times relevant herein, Plaintiff and other insureds under the insurance policy performed all material duties and obligations required under the insurance policy except those that were excused or discharged. This included making all payments due to defendant, PROGRESSIVE, under the insurance policy. Defendants and each of them, accepted policy premium payments from plaintiff and other insureds identified within the policy, made on behalf of plaintiff, as a named policy insured.

31. Defendants, and each of them, breached their obligations and covenant of good faith and fair dealing, in contract, under the insurance policy, including the breach of all of the insurance policy contract's express terms, implied at law terms and implied in fact terms, including all terms pursuant to *Insurance Code* section 11580.2 *et seq.*, in the following manner:

a) By failing to conduct a reasonable, full, prompt, timely, thorough, and complete investigation with reasonable diligence into the facts and circumstances of the accident, injury and insurance claim made by Plaintiff throughout the years of 2018; 2019 and majority of 2020.

b) By unreasonably delaying in processing and investigation of the UM/UIM claim 18-4466239 or paying UM/UIM benefits due to Plaintiff under the policy;

c) By unreasonably delaying in processing and investigation of the no-fault medical payments benefits due to Plaintiff under the policy;

d) By unreasonably failing to adequately communicate and negotiate a reasonable settlement agreement, thus breaching a contractual duty to discuss the claim to which the implied covenant of good faith and fair dealing in contract, properly attaches;

e) By unreasonably investigating, delaying and denying Plaintiff's claim based on standards known by the insurer to be improper;

f) By unreasonably failing to pay a prompt and reasonable settlement offer to Plaintiff when Defendants were in possession of sufficient evidence to support it and do such;

1 g) By failing to settle and pay plaintiff's UM/UIM claim and no-fault medical payments
 2 claim in a timely and prompt manner, and instead withheld payment of these claim benefits until
 3 plaintiff had paid for a costly and unnecessary arbitration at defendants' insistence.

4 f) By doing each of the acts or omissions described within all other causes of action of this
 5 complaint, which were contractual promises, duties and obligations by the insurance policy contract's
 6 express terms, implied at law terms and implied in fact terms including *Insurance Code* section
 7 11850.2, 790.03 and California law.

8 g) Subdivision (a) – through (f), and other obligations, duties and terms described and
 9 referenced (that were violated), as described throughout this complaint, were in fact material terms of
 10 the insurance policy contracts' **express terms, implied at law terms and implied in fact terms,**
 11 including all terms pursuant to *Insurance Code* section 11580.2 *et seq.*

12 32. Defendants, and each of them, failed to, and refused to conduct a reasonable, fair, timely and
 13 thorough investigation into the facts and circumstances of the Plaintiff's UM/UIM claim asserted, but
 14 instead wished to and did try to create new "facts," failed to consider the severe injuries suffered by
 15 Plaintiff when in possession of a more than adequate mountain of plaintiff's good medical evidence
 16 of injury and causation, from reputable physicians, to support the seriousness of Plaintiff's injuries,
 17 wrongfully conspired to deny Plaintiff benefits due under the insurance policy; and offered no
 18 reasonable settlement whatsoever beyond \$50,000 when they knew the case was worth a significant
 19 portion more than of the remaining \$100,000 policy limits to relieve Defendants, and each of them,
 20 from having to pay promptly, fairly and reasonably benefits under the insurance policy. As a
 21 proximate result of the unreasonable, wrongful and bad faith conduct mentioned above, and by the
 22 breach of said insurance policy contract, Plaintiff has suffered mental, physical, economic, and other
 23 damages in an amount to be shown at trial. By engaging in the acts and omissions alleged throughout
 24 this complaint, defendants, and each of them breached the insurance policy contract terms and the
 25 contract's covenant of good faith and fair dealing, *in contract.*

26 33. As a direct and proximate result of the breach by Defendants, and each of them, of their
 27 obligations under the insurance policy, Plaintiff has been damaged as follows:
 28

1 a) Plaintiff was forced to proceed with binding arbitration and incur the associated costs and
 2 emotional distress associated with such proceedings, including attorneys and expert fees and he was
 3 denied benefits due under the policy in a time of medical need, and physical pain.

4 b) Plaintiff was forced to suffer other economic and consequential damages as referenced
 5 herein and throughout this complaint in an amount to be shown at trial.

7 THIRD CAUSE OF ACTION

8 PROMISSORY FRAUD / DECEIT

9 (Civil Code Sections 1709; 1710(4)); *Miller v. National American Life Ins. Co. of California* (1976)
 10 54 Cal App. 3d. 331; *Wetherbee v. United Ins. Co. of America* (1968) 265 Cal App. 2d. 932)

11 (As Against PROGRESSIVE; TAMER ABULEBDA and DOES 1 to 100)

12 34. Plaintiff hereby incorporates by reference all prior and subsequent paragraphs of this complaint
 13 as if set forth in full herein.

14 35. At the time Defendants, and each of them, entered in the Policy of Insurance Contract, with
 15 Plaintiff as an insured, and each time they renewed the policy, Defendants, and each of them,
 16 represented to the policy holders and beneficiaries within Defendants' standardized insurance policy
 17 contract's express and implied terms, including plaintiff, with regard to underinsured / uninsured
 18 motorists coverage, that they would do the following in the event of a claim: that Defendants, and
 19 each of them, would pay to the beneficiary sums that the hit and run or underinsured or uninsured
 20 motorist would be obligated to pay to the beneficiary that they would not unreasonably delay
 21 payment of the claim; they would timely, fairly and reasonably investigate the claim; engage in
 22 claims handling practices that comported with the standard of care and that were reasonable and fair;
 23 they would communicate with plaintiff and discuss reasonable good faith offers given the facts and
 24 evidence; that they would not violate the Covenant of Good Faith and Fair Dealing implicit in the
 25 Policy of Insurance; that they would conduct a timely, proper, fair and complete investigation of the
 26 accident and the injuries and plaintiff's claim; that they would not manufacture a genuine dispute,
 27 when no such genuine dispute existed; and they would not, without good cause and a good faith
 28 belief, require Plaintiff to arbitrate.

1 36. In truth and fact at said time, when Plaintiff and other identified insureds entered into the
 2 standardized insurance policy contract with defendants and each of them, Defendants did not intend
 3 to pay any Plaintiff all sums that the uninsured or underinsured or hit and run motorist would be
 4 legally liable to pay, and in truth and fact, Defendants, and each of them, at that time, intended to pay
 5 the Plaintiff far less than the sum to which the Plaintiff would be entitled; and in truth and fact,
 6 Defendants, and each of them, did not intend to pay reasonably and promptly any sums due Plaintiff,
 7 but intended to delay unreasonably any sums to which Plaintiff would be entitled, even including
 8 forcing Plaintiff to arbitrate unnecessarily in order to obtain the money which was legitimately due;
 9 and in truth and fact, Defendants, and each of them, at that time, intended to violate the Covenant of
 10 Good Faith and Fair Dealing implicit in the Policy of Insurance by unreasonably undervaluing the
 11 amount due Plaintiff, and by having their agents make unreasonably low settlement offers known as
 12 "low ball" and "nuisance value" offers, or no offer at all, and refusing to pay medical payment sums
 13 long overdue unless Plaintiff would accept an unreasonably lowball offer as complete settlement; and
 14 in truth and fact at said time, Defendants, and each of them, did not intend to conduct a proper and
 15 fair investigation, but intended to twist the facts of the accident in favor of Defendants, and each of
 16 them; and would use tactics to justify dragging out the claims process and forcing Plaintiff to litigate
 17 in Bad Faith to protect his rights under the insurance contract.

18 37. At the times Defendants, and each of them, entered into the standardized Policy of Insurance
 19 Contract, and each date and time they renewed the policy. At all relevant times, defendants, and each
 20 of them, including PROGRESSIVE, undertook obligations under the policy without intent to perform
 21 them, thus misrepresenting defendant insurance carrier and its employees/agents' state of mind
 22 within the policy terms, duties and obligations as promised within the insurance policy.
 23 Defendants, and each of them (including PROGRESSIVE & TAMER ABULEBDA "ADJUSTER"),
 24 by issuing the policy 925092094, impliedly represents its then-willingness to perform those express
 25 and implied contract terms. No additional affirmative representations that it will be performed need
 26 be shown. Defendants, by engaging in the wrongful acts and omissions described throughout this
 27 complaint, including its claims handling practices, its' post-claim practices related to the claims
 28 handling process evidenced through subsequent conduct, including improper claims investigation,

1 processing, evaluation and payment and related delays and deficiencies, by defendants and each of
 2 them, an intent not to perform promises under the insurance policy contract. Defendants delayed
 3 payment based on inadequate or tardy investigations, oppressive conduct by claims adjusters seeking
 4 to reduce the amounts legitimately payable and numerous other tactics, may breach the implied
 5 covenant because they frustrate the insured's right to receive the benefits of the contract in 'prompt
 6 compensation for losses. *Defendants and each of them had no intent to perform its express and*
 7 *implied policy contract promises made within the policy terms at the time the policy was drafted,*
 8 *sold and issued to plaintiff/insured.* (see, *Beckwith v. Dahl* (2012) 2005 Cal. App. 4th 1039 [*"the*
 9 *falsity of [a] promise is sufficiently plead with a general allegation the promise was made without*
 10 *intention of performance."* (*Id.* at 1060)]).

11 38. The nature of fraud and **fraudulent deceit** involving a standardized form adhesion insurance
 12 contract or *form contract-insurance policy* arises from Defendants' that offered to Plaintiff and other
 13 named insureds on plaintiff's PROGRESSIVE automobile insurance policy, and other members of
 14 the general public the insurance policy at issue, on a take-it-or-leave-it basis. At all times relevant
 15 herein, there was no intent to by the insurer to perform on contractual promises made within the
 16 insurance policy terms at the time the policy was issued to plaintiff and other insureds covered by
 17 the policy. PROGRESSIVE and TAMER ABULEBDA "ADJUSTER", has engaged in
 18 promissory fraudulent deceit under California law pursuant to *Miller v. National American Life Ins.*
 19 *Co. of California* (1976) 54 Cal App. 3d. 331; *Wetherbee v. United Ins. Co. of America* (1968) 265
 20 Cal App. 2d. 932; *Civil Code* sections 1709, 1710 subdv. (4) and other California law.

21 39. The fraudulent misrepresentations and false promises made by Defendants and each of them,
 22 including TAMER ABULEBDA "ADJUSTER" at the time the policy was issued to cover Plaintiff
 23 and at each renewal period, were made as express and implied terms and obligations in the insurance
 24 policy and those express and implied at law that become part of the insurance policy. Pursuant to
 25 *Archdale v. American Intern. Special Lines Ins. Co.* (2007) 154 Cal. App. 4th 449; *Comunale v.*
 26 *Traders General Ins. Co.* (1958) 50 Cal. 2d 654, 658-659; *Brehm v. 21st Century Ins. Co.* (2008) 166
 27 Cal. App. 4th 1225, *California Insurance Code* and other California law, these included but are not
 28 limited to:

1 a) Obligations and duty by defendants and each of them of an obligation of good faith and
2 fair dealing toward insured, plaintiff;

3 b) An obligation and duty by Defendants, and each of them, would not do anything which
4 would injure the right of insured, plaintiff, to receive benefits of the agreement;

5 c) An obligation and duty by Defendants, and each of them, to give the interests of the
6 insured, plaintiff, at least as much consideration as it gives to its own interests, when determining
7 whether to settle with insured Plaintiff;

8 e) An obligation and duty of defendants and each of them to communicate with plaintiff to
9 honestly, diligently, fairly, timely, reasonably and thoroughly investigate and evaluate information
10 available with regard to insured-plaintiff's claim, and make timely and reasonable settlement offers to
11 plaintiff and act reasonably to resolve the claim and affirmative effort to discuss and resolve the
12 plaintiff's claim before an arbitration under the policy was necessary, so as to avoid further costs,
13 expense by plaintiff/insured (see, *Brehm v. 21st Century Ins. Co.* (2008) 166 Cal. App. 4th 1225,
14 142).

15 d) An obligation and duty of defendants, and each of them, to accept a reasonable settlement
16 offer of insured Plaintiff's claim;

17 e) An obligation and duty of defendants, and each of them, to accept a reasonable
18 settlement offer of insured plaintiff's claim without regard to such factors as the limits imposed by
19 the policy, a desire to reduce the amount of future settlements or a belief that the policy does not
20 provide insured/plaintiff coverage.

21 40. Based on the existence of these duties and obligations, both express and implied as "promises"
22 from the insurance carrier within defendant's (non-negotiable, adhesion "form") insurance policy
23 contract, implied terms and express terms, the insured/plaintiff reasonably and justifiably relied on
24 these express and implied promises from defendants and each of them, when the policy was first
25 issued and at each and every renewal period for the plaintiff's policy. The existence of these
26 promises made the adhesive and non-negotiable nature of the automobile insurance policy a realistic
27 and reasonable contract to enter for a mandatory public need for automobile insurance to drive a
28 motor vehicle within the State of California.

41. Defendants, and each of them, represented within the Policy's express, implied at law and implied in fact policy terms and promises, to the policy holders, named insured's beneficiaries, unnamed beneficiaries and permissive users of a vehicle under the Policy 925092094 (which included plaintiff), with regard to uninsured and underinsured motorist coverage, that Defendants and each of them, would do the following in the event of a claim: that Defendants, and each of them, would pay to the beneficiary sums that the uninsured or underinsured motorist would be obligated to pay to the beneficiary less any sums previously paid by the other motorist and that they would not unreasonably delay payment of the claim; that they would not violate the Covenant of Good Faith and Fair Dealing implicit in the Policy of Insurance; that they would conduct a timely, proper, reasonable and fair investigation of the accident and the injuries; they would retain expert professionals to timely, fairly and reasonably investigate plaintiff's UM/UIM claim 18-4466239 during the claims handling process, which defendants and each of them were obligated under the insurance policy contract to do; they would negotiate in good faith with plaintiff as to a fair and reasonable settlement offer given the facts and evidence, including facts and evidence that plaintiff provided defendants and each of them; that they would not manufacture a genuine dispute, when no such genuine dispute existed; and they would not, without good cause and good faith belief, require Plaintiff to unnecessarily arbitrate with great financial and emotional cost to plaintiff. In truth and fact at said time, Defendants, and each of them, did not intend to pay any Plaintiff all sums the uninsured or underinsured motorist would be legally liable to pay, and in truth and fact, Defendants, and each of them, *at that time*, intended to pay the Plaintiff far less than the sum to which the Plaintiff would be entitled; and in truth and fact, Defendants, and each of them did not intend to pay reasonably and promptly any sums due Plaintiff, or to reasonably, fairly, time and in good faith, perform their duties and obligations pursuant to the terms of the insurance policy contract, but intended to delay unreasonably any sums to which Plaintiff would be entitled, engage in bad faith, unreasonable claims handling practices once a claim was made on the policy as discussed throughout this complaint, and even including forcing Plaintiff to file a lawsuit in bad faith in order to obtain the money which was legitimately due; and in truth and fact, Defendants, and each of them, at that time, intended to violate the Covenant of Good Faith and Fair Dealing in contract and in tort, implicit in the Policy of Insurance contract by unreasonably

1 undervaluing the amount due Plaintiff, failing to timely, properly, reasonably and fairly investigate
 2 the claim, and by having their agents make unreasonably low settlement offers known as "low ball"
 3 and "nuisance value" offers, unless Plaintiff would accept an unreasonably lowball offer as complete
 4 settlement; and in truth and fact at said time, Defendants, and each of them, did not intend from the
 5 outset, to conduct a proper, timely and fair, complete investigation, or make or communicate any
 6 reasonable and fair good faith settlement offers to plaintiff, but intended to retain only expert
 7 witnesses for the accident facts, who they knew would attempt to twist the facts of the accident in
 8 favor of Defendants, and each of them, and would retain physicians and other experts and expert
 9 witnesses, including those identified herein, at a time period indicating defendants' unreasonable,
 10 unfair and bad faith UM/UIM claims handling practices and bad faith conduct, who defendants knew
 11 would minimize any of Plaintiff's injuries, even if they knew themselves that they were much
 12 greater; and would use the findings of such insincere experts to justify dragging out the claims
 13 process and/or forcing an unnecessary arbitration that would expose plaintiff to much financial cost
 14 and emotional stress.

15 42. Thereafter, pursuant to their intentions to breach the Policy of Insurance, when Plaintiff made
 16 his claim for benefits, Defendants, and each of them, in accordance with their scheme to deprive him
 17 of the benefits of the policy, did, and omitted to do, the acts described throughout this complaint,
 18 including but not limited to:

- 19 a) Refusing to pay Plaintiff the amount the underinsured motorist was legally liable to pay,
 20 but offered only half of the \$100,000 policy, \$50,000 settlement, which Defendants tendered.
- 21 b) Unreasonably delaying, withholding and making offers, and only paying anything after a
 22 harsh letter from Plaintiff's counsel threatening a lawsuit in bad faith;
- 23 c) Unreasonably conducting an improper, untimely and unfair investigation at a timeframe
 24 which also indicated unreasonable, unfair, and bad faith claim investigation and handling and
 25 retention of a claim expert witness investigation who defendants knew were retained only to
 26 twist the facts of the accident and wrongfully and unreasonably minimize the severity of
 27 Plaintiff's injuries and dispute UM/UIM liability where no genuine dispute existed (see,
 28 *Brehm v. 21st Century Ins. Co.* (2008) 166 Cal.App. 4th 1225;

- 1 d) Failing to negotiate in good faith and communicate with plaintiff a fair, reasonable and
- 2 timely settlement payment offer;
- 3 e) By failing to settle and pay plaintiff's UM/UIM claim and no-fault Medical
- 4 payments claim in a timely and prompt manner and instead withheld payment of these
- 5 claim benefits until plaintiff had sent Defense a letter threatening a Bad Faith Law Suit;
- 6 f) Unreasonably, willfully and intentionally investigate, evaluate and handle and discuss
- 7 plaintiff's claim so that no agreement to settle the claim before the cost and expense of a
- 8 UM/UIM Bad Faith Law suit would be imposed on plaintiff, would be realistically possible
- 9 (see, *Brehm v. 21st Century Ins. Co.* (2008) 166 Cal.App. 4th 1225, 1242);
- 10 g) Forcing an unnecessary and costly Bad Faith Lawsuit on Plaintiff when they knew that
- 11 Plaintiff was entitled to most or all the remaining policy limits of \$100,000.00;
- 12 h) Refusing to timely, fairly and reasonably pay Plaintiff all of his no-fault, medical payment
- 13 benefits under the policy.

14 43. All such aforementioned acts, omissions and representations constituted "fraudulent deceit" as
 15 defined in *Civil Code* sections 1709 and 1710(4) and California case law. Defendants and each of
 16 them, willfully deceived Plaintiff, with intent to induce Plaintiff to alter his position so as to buy,
 17 accept and/or rely on the Defendants' insurance policy contract terms, obligations, duties and
 18 coverage during his time of calamity, which was offered by Defendants and each of them, to protect
 19 plaintiff and other insureds within the insurance policy contract, pursuant to the express, implied in
 20 fact and implied at law policy terms and promises of the policy and assuming such terms, promises
 21 and obligations stated throughout this complaint would be carried out as stated in the insurance policy
 22 contract and those terms, promises, duties and obligations required by *Insurance Code* Sections
 23 11580.2, *et seq.*, 790.03 *et seq.*, and other California law.

24 44. Pursuant to *Civil Code* sections 1710(4) and 1709, *Miller v. National American Life Ins. Co.*
 25 *of California* (1976) 54 Cal App. 3d. 331; *Wetherbee v. United Ins. Co. of America* (1968) 265 Cal
 26 App. 2d. 932, Defendants, and each of them including TAMER ABULEBDA made "false
 27 promises" in the standardized insurance policy contract because Defendants, and each of them,
 28 entered into the agreement each time, including prior to and on October 15, 2018 (date the insurance

1 policy went into effect), to follow the policy's terms and obligations of the agreement but instead,
2 actually had the intention of performing only to the extent that would be to Defendants' benefit
3 such that Defendants intended the contract be carried only in such ways as to be to the
4 Insurance Company and Defendants' benefit and not in such ways to be to the policy
5 holders/insured's benefit. Thus Defendants, and each of them, through the insurance policy
6 contract, made promises, to Plaintiff and other identified insureds, without any intention of
7 performing them each time they renewed the insurance policy.

8 45. The aforementioned insurance policy contract's promises and representations to Plaintiff and
9 other identified policy insureds, by Defendants, and each of them, were deceptive and in fact false
10 and untrue when made to Plaintiff and the other insureds named as referenced with the insurance
11 policy contract prior to and at the time of policy issuance.

12 46. The aforementioned promises and representations by Defendants, and each of them, were in
13 fact material.

14 47. Defendants and each of them knew the promises and representations were false and untrue
15 when they were made within the policy contract terms and obligations both express and implied, and
16 would never be carried out in compliance with the insurance policy contract implied and express
17 terms. At all times relevant herein, Defendants, and each of them including TAMER ABULEBDA
18 "ADJUSTER" and PROGRESSIVE, engaged in an absolute unwillingness even to attempt (a
19 promised) performance. Defendants made the promises and representations intentionally and
20 willfully. Defendants, and each of them, misrepresented their own state of mind at the time the
21 promises and representations were made within the insurance policy contract as both express and
22 implied within the policy language and obligations under California law. 50. Pursuant to *Miller v.*
23 *National American Life Ins. Co.* (1976) 54 Cal. App. 3d 331, at all times defendants and each of them
24 acted to induce plaintiff/insured to alter his position and enter the insurance policy contract and
25 renewal of such policy contract. Plaintiff/insured did change his position to his detriment in reliance
26 on the policy promises. Such reliance was reasonable by plaintiff/insured. At all times the
27 defendants' making of the policy promises within the policy contract were with an intent to deceive
28 plaintiff/insured. At all times the defendants' making of the insurance policy contract promises

1 were made with the intent to induce the plaintiff/insured to whom it was made within the policy
2 contract, to enter into the transaction and pay for the insurance policy contract and renew such
3 policy contract each and every time the policy was up for renewal.

4 48. All fraudulent deceit and false promises arose out of the implied and express terms of the
5 adhesive insurance policy contract entered into between plaintiff/insured and defendant,
6 PROGRESSIVE and Does 1 to 100.

7 49. Plaintiff and other identified insureds on the insurance policy contract, reasonably and/or
8 justifiably relied on the promises and representations of Defendants, and each of them, when plaintiff
9 and other identified insureds within the policy, to his detriment, considered purchasing or renewing
10 the insurance policy contract and did purchase and renew the policy to cover him for automobile
11 losses, with defendants and each of them.

12 50. Plaintiff was proximately caused detriment, damage and loss in that he paid policy premiums
13 and in return defendants, and each of them, did not perform on their contractual promises and
14 representations.

15 51. Defendants knew their promises, representations, duties and obligations under the insurance
16 policy contract and those implied in the contract, both in fact, and under California law, including but
17 not limited to *Insurance Code* section 11850.2 *et seq.*, but failed to disclose and/or concealed that
18 Plaintiff and other identified insureds would be subjected to wrongful, tortious, fraudulent, malicious
19 and oppressive intentional and willful failure to perform and deliver on the contractual duties and
20 promises at the time plaintiff entered into the insurance policy contract with defendants and each of
21 them, including prior to and on or about August 29, 2015 (the active start date of the automobile
22 insurance policy and coverage at issue).

23 52. Further, the standardized automobile insurance policy contract was an adhesion contract as
24 defined under California law. The insurance policy contract was offered on a "take it or leave it
25 basis," to plaintiff and other policy identified insureds, as well as including the general public.
26 Plaintiff and other insureds on the policy were members of the general public who were offered this
27 insurance policy contract by defendants and each of them (including PROGRESSIVE). Plaintiff
28 and other insureds, as well as the general public, were not in a position or could negotiate the terms of

1 the insurance policy agreement. Plaintiff and other insureds were compelled to adhere to all of the
2 policy's terms and conditions as drafted by PROGRESSIVE. At all times relevant therein plaintiff
3 and other insureds, on the policy nor other members of the general public, were entitled to nor could
4 alter or modify the terms of the PROGRESSIVE automobile insurance policy by face to face
5 negotiations or otherwise.

6 53. The automobile insurance policy was required and mandated under California law for all
7 drivers and owners of automobiles to have and pay for so they may drive in California. This
8 automobile insurance policy is a public need and requirement under California law. The terms of
9 the insurance policy agreement were nearly identical to all other entities that offer similar automobile
10 insurance policy coverage, thus there were no other reasonable insurance policy coverage alternatives
11 in the marketplace.

12 54. At all times, by the mere issuance of the insurance policy to plaintiff/insured, defendants
13 and Does 1 to 100, as the insurer, *impliedly* represented its willingness to perform under the
14 policy express and implied terms. No additional, affirmative representation that it will perform
15 need be shown between plaintiff and defendants. *Miller v. National American Life Ins. Co. of*
16 *Calif.* (1976) 54 Cal.App.3d 331, 338.

17 55. As a direct and proximate result of the false promises, fraudulent deceit and concealment by
18 Defendants, and each of them, of their obligations under the insurance policy contract, Plaintiff has
19 been damaged as follows:

20 a) Plaintiff was forced to proceed with binding arbitration and incur the associated costs
21 and emotional distress associated with such proceedings including attorneys and expert fees and
22 he was denied benefits due under the policy in a time of medical need, and physical pain;

23 b) Plaintiff was forced to suffer other economic and consequential damages as referenced herein
24 and throughout this complaint in an amount to be shown at trial.

25 56. At all times relevant herein, defendants and each of them, intended to injure, harm and damage
26 plaintiff. Defendants, and each of them, intended the consequences described throughout this
27 complaint and that were substantially certain to result from its conduct, acts and omissions.

28

1 57. The conduct of Defendants, and each of them, described in this complaint of deliberately and
2 calculatingly failing to provide the compensation which they knew was due to Plaintiff, scheming to
3 conspire and defraud Plaintiff, and committing actual fraudulent deceit against Plaintiff, and further
4 intentionally inflicting emotional distress upon Plaintiff, offering no settlement at all in light of
5 compelling medical evidence supporting that Plaintiff was entitled to the full policy benefits, while
6 well knowing their policy holder and insured was entitled to policy limits constitutes malice, fraud
7 and oppression under California *Civil Code* section 3294 and *Delgado v. Heritage Life Ins.*
8 *Co.*, (1984) 157 Cal. App. 3d 262, in that it was done with the intent to vex, injure, or annoy and with
9 willful and conscious disregard of the Plaintiff's rights and safety of plaintiff and deliberately in bad
10 faith, to deny him the prompt, and reasonable policy claim benefits to which he was entitled under the
11 insurance policy. Defendants, and each of them, were aware of the consequences of its' conduct,
12 acts, omissions and representations and willfully and deliberately failed to avoid these consequences
13 to plaintiff/insured's detriment, damages and loss. Defendants' acts, omissions and representations
14 showed a conscious course of conduct, firmly grounded in established company policy. Further
15 defendants engaged in oppression in that they subjected plaintiff/an insured to cruel and unjust
16 hardship in conscious disregard of his rights.

17 58. The acts, omissions and representations were all despicable. Defendants, and each of them
18 conduct, acts, omissions and representations were mean, vile, base or contemptible that it would be
19 looked down upon and despised by reasonable people. At all relevant times, Defendants, and each of
20 them, including insurance company's agents, employees, officers, directors and managing agents had
21 advanced knowledge of their employees, contractors, agents, managing agents, officers, directors
22 unfitness and acted with a conscious disregard of the rights and safety of plaintiff/an insured. At all
23 relevant times, Defendants, and each of them, including insurance company's agents, employees,
24 officers, directors and managing agents acted with and had advanced knowledge of their employees,
25 contractors, agents, managing agents, officers, directors acts, omissions and representations or
26 thereafter ratified the wrongful, intentional, willful, unreasonable, reckless, careless, negligent,
27 oppressive, malicious, fraudulent, tortious and bad faith acts, omissions and representations of the
28

1 wrongful conduct, acts, omissions and representations of defendants and each of them, as described
2 throughout this complaint and/or ratified such wrongful acts, omissions and representations.

3 59. All the aforesaid acts, omissions and representations were performed in an effort to discourage
4 Plaintiff from seeking the compensation due to him at a time Defendants, and each of them, knew
5 that the Plaintiff was financially vulnerable, and during his time of calamity. Thus, Plaintiff is entitled
6 to punitive and exemplary damages pursuant to *Civil Code* section 3294 and other California law, in
7 an amount appropriate to punish and make an example of Defendants, and each of them.

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PRAYER

WHEREFORE, Plaintiff prays for damages as against Defendants, and each of them, as follows:

- A. For general pecuniary and compensatory damages for breach of the implied covenant of good faith and fair dealing including, but not limited to, injuries resulting from humiliation, mental anguish and emotional distress and litigation expenses and costs according to proof;
- B. For compensatory and consequential damages according to proof for breach of contract;
- C. For compensatory and consequential damages according to proof on all accounts;
- D. For reasonable attorneys' fees in obtaining policy benefit incurred herein; for reasonable additional attorneys' fees; expert witness fees; incurred in the hit and run motorist litigation arising from the breach of covenant of good faith and fair dealing *in tort* (bad faith) cause of action;
- E. For prejudgment interest in an amount to be proved at time of trial;
- F. For costs of suit incurred herein;
- G. For punitive and exemplary damages in an amount sufficient to punish, deter and make an example of Defendants, and each of them, as to the breach of the covenant of good faith and fair dealing *in tort* (bad faith) cause of action;
- H. For punitive and exemplary damages in an amount sufficient to punish, deter and make an example of Defendants, and each of them, as to the fraud cause of action.
- I. For such other and further relief as this Court may deem just and proper.

Dated: April 12, 2021

LAW OFFICES OF GENE J. GOLDSMAN

By: 

Gene J. Goldsman, Esq.
Attorney for Plaintiff,
AHMED HALEEM

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, number, and address) Gene J. Goldman, Esq. Law Offices of Gene J. Goldman 501 Civic Center Drive West, Santa Ana, CA 92701 TELEPHONE NO. (714) 541-3333 FAX NO. (714) 541-0456 ATTORNEY FOR: Ahmed Haleem		FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY JUL 30 2021 CLERK OF THE SUPERIOR COURT	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 24405 Amador Street MAILING ADDRESS: 24405 Amador Street CITY AND ZIP CODE: Hayward, 94544 BRANCH NAME: Hayward Hall of Justice		CASE NUMBER: WG21107078 JUDGE: DEPT:	
CASE NAME: Haleem v. Progressive, et al		CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited Amount demanded exceeds \$25,000 <input type="checkbox"/> Limited Amount demanded is \$25,000 or less	
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		Items 1-6 below must be completed (see instructions on page 2).	

1. Check one box below for the case type that best describes this case:

Auto/Tort: <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort: <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPD/WD (23) Non-PIPD/WD (Other) Tort: <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIPD/WD tort (35) Employment: <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract: <input checked="" type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property: <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer: <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review: <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandamus (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, Rules 3.400-3.403) <input type="checkbox"/> Antitrust/trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment: <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint: <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition: <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary; b. ☐ nonmonetary declaratory or injunctive relief; c. ☒ punitive
4. Number of causes of action (specify): (3) Breach of Covenant of Good Faith and Fair Dealing, Breach of Contract, Fraud
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 12, 2021

Gene J. Goldman, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

1. Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.

2. File this cover sheet in addition to any cover sheet required by local court rule.

3. If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.

4. Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
 Judicial Council of California
 CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740;
 Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)
Auto (22)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (48) <i>(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)</i>	Breach of Rental/Lease	Construction Defect (10)
	Contract <i>(not unlawful detainer or wrongful eviction)</i>	Claims Involving Mass Tort (40)
	Contract/Warranty Breach—Seller	Securities Litigation (28)
	Plaintiff <i>(not fraud or negligence)</i>	Environmental/Toxic Tort (30)
	Negligent Breach of Contract/Warranty	Insurance Coverage Claims <i>(arising from provisionally complex case type listed above)</i> (41)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort	Other Breach of Contract/Warranty	Enforcement of Judgment
Asbestos (04)	Collections (e.g., money owed, open book accounts) (09)	Enforcement of Judgment (20)
Asbestos Property Damage	Collection Case—Seller Plaintiff	Abstract of Judgment (Out of County)
Asbestos Personal Injury/Wrongful Death	Other Promissory Note/Collections Case	Confession of Judgment <i>(non-domestic relations)</i>
Product Liability <i>(not asbestos or toxic/environmental)</i> (24)	Insurance Coverage <i>(not provisionally complex)</i> (18)	Sister State Judgment
Medical Malpractice (45)	Auto Subrogation	Administrative Agency Award <i>(not unpaid taxes)</i>
Medical Malpractice—Physicians & Surgeons	Other Coverage	Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Professional Health Care Malpractice	Other Contract (37)	Other Enforcement of Judgment Case
Other PI/PD/WD (23)	Contractual Fraud	
Premises Liability (e.g., slip and fall)	Other Contract Dispute	Miscellaneous Civil Complaint
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	Real Property	RICO (27)
Intentional Infliction of Emotional Distress	Eminent Domain/Inverse Condemnation (14)	Other Complaint <i>(not specified above)</i> (42)
Negligent Infliction of Emotional Distress	Wrongful Eviction (33)	Declaratory Relief Only
Other PI/PD/WD	Other Real Property (e.g., quiet title) (26)	Injunctive Relief Only <i>(non-harassment)</i>
Non-PI/PD/WD (Other) Tort	Writ of Possession of Real Property	Mechanics Lien
Business Tort/Unfair Business Practice (07)	Mortgage Foreclosure	Other Commercial Complaint
Civil Rights (e.g., discrimination, false arrest) <i>(not civil harassment)</i> (08)	Quiet Title	Case <i>(non-tort/non-complex)</i>
Defamation (e.g., slander, libel) (13)	Other Real Property <i>(not eminent domain, landlord/tenant, or foreclosure)</i>	Other Civil Complaint <i>(non-tort/non-complex)</i>
Fraud (16)	Unlawful Detainer	Miscellaneous Civil Petition
Intellectual Property (19)	Commercial (31)	Partnership and Corporate Governance (21)
Professional Negligence (25)	Residential (32)	Other Petition <i>(not specified above)</i> (43)
Legal Malpractice	Drugs (38) <i>(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)</i>	Civil Harassment
Other Professional Malpractice <i>(not medical or legal)</i>	Judicial Review	Workplace Violence
Other Non-PI/PD/WD Tort (35)	Asset Forfeiture (05)	Elder/Dependent Adult Abuse
Employment	Petition Re: Arbitration Award (11)	Election Contest
Wrongful Termination (36)	Writ of Mandate (02)	Petition for Name Change
Other Employment (15)	Writ—Administrative Mandamus	Petition for Relief From Late Claim
	Writ—Mandamus on Limited Court Case Matter	Other Civil Petition
	Case Matter	
	Writ—Other Limited Court Case	
	Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor	
	Commissioner Appeals	

CM-010 [Rev. July 1, 2007]

CIVIL CASE COVER SHEET

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Superior Court of California, County of Alameda Alternative Dispute Resolution (ADR) Information Packet

The person who files a civil lawsuit (plaintiff) must include the ADR Information Packet with the complaint when serving the defendant. Cross complainants must serve the ADR Information Packet on any new parties named to the action.

The Court *strongly encourages* the parties to use some form of ADR before proceeding to trial. You may choose ADR by:

- Indicating your preference on Case Management Form CM-110;
- Filing the Stipulation to ADR and Delay Initial Case Management Conference for 90 Days (a local form included with the information packet); or
- Agree to ADR at your Initial Case Management Conference.

QUESTIONS? Call (510) 891-6055. Email adrprogram@alameda.courts.ca.gov
Or visit the court's website at <http://www.alameda.courts.ca.gov/adr>

What Are The Advantages Of Using ADR?

- **Faster** – Litigation can take years to complete but ADR usually takes weeks or months.
- **Cheaper** – Parties can save on attorneys' fees and litigation costs.
- **More control and flexibility** – Parties choose the ADR process appropriate for their case.
- **Cooperative and less stressful** – In mediation, parties cooperate to find a mutually agreeable resolution.
- **Preserve Relationships** – A mediator can help you effectively communicate your interests and point of view to the other side. This is an important benefit when you want to preserve a relationship.

What Is The Disadvantage Of Using ADR?

- **You may go to court anyway** – If you cannot resolve your dispute using ADR, you may still have to spend time and money resolving your lawsuit through the courts.

What ADR Options Are Available?

- **Mediation** – A neutral person (mediator) helps the parties communicate, clarify facts, identify legal issues, explore settlement options, and agree on a solution that is acceptable to all sides.
 - **Court Mediation Program:** Mediators do not charge fees for the first two hours of mediation. If parties need more time, they must pay the mediator's regular fees.

Some mediators ask for a deposit before mediation starts which is subject to a refund for unused time.

- **Private Mediation:** This is mediation where the parties pay the mediator's regular fees and may choose a mediator outside the court's panel.
- **Arbitration** – A neutral person (arbitrator) hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial and the rules of evidence are often relaxed. Arbitration is effective when the parties want someone other than themselves to decide the outcome.
- **Judicial Arbitration Program (non-binding):** The judge can refer a case or the parties can agree to use judicial arbitration. The parties select an arbitrator from a list provided by the court. If the parties cannot agree on an arbitrator, one will be assigned by the court. There is no fee for the arbitrator. The arbitrator must send the decision (award of the arbitrator) to the court. The parties have the right to reject the award and proceed to trial.
- **Private Arbitration (binding and non-binding)** occurs when parties involved in a dispute either agree or are contractually obligated. This option takes place outside of the courts and is normally binding meaning the arbitrator's decision is final.

Mediation Service Programs In Alameda County

Low cost mediation services are available through non-profit community organizations. Trained volunteer mediators provide these services. Contact the following organizations for more information:

SEEDS Community Resolution Center

2530 San Pablo Avenue, Suite A, Berkeley, CA 94702-1612

Telephone: (510) 548-2377 Website: www.seedscrc.org

Their mission is to provide mediation, facilitation, training and education programs in our diverse communities – **S**ervices that **E**ncourage **E**ffective **D**ialogue and **S**olution-making.

Center for Community Dispute Settlement

291 McLeod Street, Livermore, CA 94550

Telephone: (925) 373-1035 Website: www.trivalleymediation.com

CCDS provides services in the Tri-Valley area for all of Alameda County.

For Victim/Offender Restorative Justice Services

Catholic Charities of the East Bay: Oakland

433 Jefferson Street, Oakland, CA 94607

Telephone: (510) 768-3100 Website: www.cceb.org

Mediation sessions involve the youth, victim, and family members work toward a mutually agreeable restitution agreement.

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

- All parties have signed and filed this stipulation with the Case Management Conference Statement at least 15 days before the initial case management conference.
- A copy of this stipulation has been received by the ADR Program Administrator, 24405 Amador Street, Hayward, CA 94544 or Fax to (510) 267-5727.

- Date: _____ Time: _____ Department: _____

- ☐ Court mediation ☐ Judicial arbitration
- ☐ Private mediation ☐ Private arbitration

- a. No party to the case has requested a complex civil litigation determination hearing;
- b. All parties have been served and intend to submit to the jurisdiction of the court;
- c. All parties have agreed to a specific plan for sufficient discovery to make the ADR process meaningful;
- d. Copies of this stipulation and self-addressed stamped envelopes are provided for returning endorsed filed stamped copies to counsel and all parties;
- e. Case management statements are submitted with this stipulation;
- f. All parties will attend ADR conferences; and,
- g. The court will not allow more than 90 days to complete ADR.

Date:

Date:

Form Approved for Mandatory Use
Superior Court of California,
County of Alameda
ALA ADR-001 (New January 1, 2010)

**STIPULATION TO ATTEND ALTERNATIVE DISPUTE RESOLUTION (ADR)
AND DELAY INITIAL CASE MANAGEMENT CONFERENCE FOR 90 DAYS**

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Cal. Rules of Court,
rule 3.221(a)(4)

(TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY FOR PLAINTIFF)

ALA ADR-001

PLAINTIFF/PETITIONER:

CASE NUMBER.:

DEFENDANT/RESPONDENT:

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT)

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY FOR DEFENDANT)